

#.9

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 09/657,116
Applicant: Martinez
Filing Date: 9/07/2000
Group Art Unit: 2174
Title: Spotlight Cursor

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Technology Center 2100

PETITION TO ACCEPT AMENDMENT AS TIMELY FILED

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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OFFICE OF PETITIONS

Dear Commissioner:

Pursuant to 37 CFR § 1.181(a), Applicant respectfully requests that the Commissioner accept the attached amendment as timely filed. The USPTO mailed the present office action on June 5, 2003. Applicant submitted a responsive amendment by fax on August 21, 2003. In a telephone conference on December 18, 2003, the Examiner stated that the responsive amendment had not been received. As of December 19, 2003, the Examiner has not issued a notice of abandonment.

As evidenced in this response, the Applicant did in fact respond timely with a response faxed to the USPTO on August 21, 2003. Because the required documents were timely filed, the Commission should accept the amendment as timely filed so that prosecution of the present application can continue.

Exhibits

The following documents are relevant to the present petition:

Exhibit A	Office Action mailed 6/5/2003
Exhibit B	Response to Office Action filed 8/21/2003
Exhibit C	Auto-Reply Facsimile Page faxed 8/21/2003

Timeline of Events

The USPTO mailed the present Office Action in the present application on June 5, 2003 (See Exhibit A). In response to the Office Action, the Applicant faxed a Response to the Office Action to the USPTO on August 21, 2003 (See Exhibit B). The Applicant received a confirmation transmittal page from his fax machine indicating that the USPTO had received the fax (See the last page of Exhibit B). In addition, the USPTO faxed a confirmation page back to the Applicant on August 21, 2003 (See Exhibit C). On December 17, the Examiner called the Attorney of Record inquiring about the response, stating that the response had not been entered. The present petition is a result of the December 17, 2003 telephone conference.

The Amendment Should be Entered Because the Required Documents were Timely Filed

The Commissioner should accept the amendment as timely filed because the required documents were timely filed with the USPTO. Exhibit B is a copy of the documents filed on August 21, 2003. The documents in Exhibit B were faxed to the fax number specified by the Examiner. Exhibit C is the fax transmittal page showing that the documents in Exhibit B were properly received by the USPTO. Exhibits B and C are *prima facie* evidence that the documents were properly filed. Because the documents were timely filed, the amendment should be entered and prosecution of the application should continue. Therefore, the Commissioner should accept the amendment filed August 21, 2003 as timely and enter the amendment into the record.

Attorney Docket No. AUS920000405US1
Serial No. 09/657,116
Petition to Accept Amendment as Timely Filed

Respectfully submitted,

Rudolf O. Siegesmund

Rudolf O. Siegesmund
Registration No. 37,720
Suite 2000
4627 N. Central Expressway
Dallas, Texas 75205-4017
214-528-2407
FAX 214-528-2434
Attorney for Applicant

Express Mail Label No. EK041896105US Date of Deposit: 12/29/03

I hereby certify that this paper and fee are being deposited with the United States Postal Service Express Mail Post Office to Addressee service under 37 CFR 1.10 on the date indicated above and is addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313.

Rudolf O. Siegesmund
Rudolf O. Siegesmund

Exhibit A



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,116	09/07/2000	Anthony Edward Martinez	AUS9-2000-0405-US1	1308

7590

06/05/2003

Rudolf O Siegesmund
Suite 2000
4627 N Central Expressway
Dallas, TX 75205-4022

EXAMINER

VU, THANH T

ART UNIT

PAPER NUMBER

2174

7

DATE MAILED: 06/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary

Application No.

09/657,116

Applicant(s)

MARTINEZ, ANTHONY EDWARD

Examiner

Thanh T. Vu

Art Unit

2174

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

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DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 4 recites the limitation "the light". There is insufficient antecedent basis for this limitation in the claim. The examiner infers "the light" as "an area".

Claim Rejections - 35 USC § 102

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-20 are rejected under 35 U.S.C. 102(e) as being anticipated by Lehikoimen et al. ("Lehikoimen", U.S. Pat. No. 6,559,872).

Per claim 1, Lehikoimen teaches a programmable apparatus for displaying secondary content, comprising: a computer (col. 2, lines 49-52); a software program for displaying a spotlight cursor having a circumference, and the computer being directed to display secondary content when said secondary content is covered by a point on said circumference (fig. 2; col. 3, lines 15-27; and col. 4, lines 5-20).

Per claim 2, Lehikoimen teaches the programmable apparatus of claim 1 wherein said circumference is visible as a solid line or a broken line or not visible (fig. 2; circle 100).

Per claim 3, Lehikoimen teaches the programmable apparatus of claim 1 wherein said secondary content is one of the following: gradual, all or zone (col. 4, lines 5-20).

Per claim 4, Lehto teaches the programmable apparatus of claim 1 wherein the light within the circumference is of selectable and variable intensity (col. 4, lines 22-33).

Per Claim 5, Lehto teaches the programmable apparatus of claim 1 wherein the area inside the circumference is a pre-selectable color (fig. 2; it is inherent that the area inside the circle 100 has a color in order to provide user a visual indication of the cursor).

Per Claim 6, Lehto teaches a computer readable memory for causing a computer having a cursor to display secondary content comprising: a computer readable storage medium, and a program stored in said storage medium (col. 2, lines 40-53); the storage medium so configured by said program, causes the computer to display a spotlight cursor having a radius, a circumference, and a center located at the forward most point of the cursor wherein responsive to coincidence of coordinates on said circumference and said secondary content, said secondary content is displayed (fig. 2; col. 3, lines 15-27; and col. 4, lines 5-20; col. 3, lines 28-32).

Per claim 7, Lehto teaches a computer implemented process to accomplish display of secondary content upon activation by a spotlight cursor comprising: using a first program in the memory of a computer, performing the following steps; determining whether or not the user has selected the spotlight cursor (col. 4, lines 40-46); determining whether or not radius has been selected (col. 4, lines 22-33 and 50-55); obtaining the coordinates of the cursor and calculating the location of a circumference (col. 3, lines 15-25; col. 3, lines 32-40); determining whether the circumference has covered a secondary content and causing the secondary content to be displayed (col. 3, lines 32-40; col. 4, lines 5-20); using a second program in the memory of a computer, performing the following steps; displaying a menu (col. 4, lines 22-33); determining whether or not secondary contents are to be displayed, selecting the radius, and selecting

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intensity (col. 4, lines 5-20, and lines 22-33); selecting color for area inside the circumference, selecting color of the circumference, and selecting configuration of the circumference (fig. 2; col. 4, lines 22-32; it is inherent that the area inside the circle 100 and the perimeter of the circle 100 have a color in order to provide user a visual indication of the cursor); and determining the definition of secondary content (col. 4, lines 5-20).

Per claim 8, Lehikoimen teaches a method for creating a spotlight cursor for causing secondary content to be revealed comprising: obtaining the coordinates of the cursor and calculating the location of a circumference (col. 3, lines 15-25; col. 3, lines 32-40); determining whether the circumference has covered a secondary content and responsive to a determination that the circumference has covered a secondary content, causing a secondary content to be displayed (col. 3, lines 32-40; col. 4, line 5-20).

Per claim 9, Lehikoimen teaches the method of claim 8 further comprising the step of determining whether or not the user has selected the spotlight cursor (col. 4, lines 40-46).

Per claim 10, Lehikoimen teaches the method of claim 8 further comprising the step of determining whether or not the radius has been selected (col. 4, lines 50-55).

Claim 11 is rejected under the same rationale as claim 1.

Per claim 12, Lehikoimen teaches the method of claim 11 wherein the peripheral area is a circle (fig. 2; circle 100).

Per claim 13, Lehikoimen teaches the method of claim 11 wherein the intersection occurs on a graphical user interface (fig. 2; col. 3, lines 15-20).

Per claim 14, Lehikoimen teaches the method of claim 11 wherein the cursor is a pointer (fig. 3; col. 4, lines 34-40).

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Per claim 15, Lehikoimen teaches the method of claim 11 wherein the secondary content is displayed without the cursor intersecting the item (fig. 3; col. 4, lines 34-40; col. 4, lines 5-20; col. 3, lines 28-32; the examiner infers that the cursor is the center of the selection circle).

Claim 16 is rejected under the same rationale as claim 1.

Claims 17-20 are rejected under the same rationale as claim 12-15 respectively.

Response to Arguments

Applicant's arguments with respect to claims 1-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Glaser (U.S. Pat. No. 6,392,671) discloses a computer pointing device having theme identification means.

Strasnick et al. (U.S. Pat. No. 5,861,885) discloses method and apparatus for indicating selected object by spotlight.

Inquiries

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh T. Vu whose telephone number is (703)-308-9119. The examiner can normally be reached on Mon-Thur and every other Fri 8:30 AM - 6:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kristine L. Kincaid can be reached on (703) 308-0640. The fax phone numbers for

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Page 6

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the organization where this application or proceeding is assigned are (703)-746-7239 for regular communications and (703)-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

T. Vu
May 27, 2003

Kristine Kincaid
KRISTINE KINCAID
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

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Notice of References Cited

Application/Control No.

09/657,116

Applicant(s)/Patent Under
Reexamination
MARTINEZ, ANTHONY EDWARD

Examiner

Thanh T. Vu

Art Unit

2174

Page 1 of 1

U.S. PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Name	Classification
	A	US-6,559,872	05-2003	Lehikoimen et al.	345/856
	B	US-5,861,885	01-1999	Strasnick et al.	345/850
	C	US-6,392,671	05-2002	Glaser, Lawrence F.	345/765
	D	US-			
	E	US-			
	F	US-			
	G	US-			
	H	US-			
	I	US-			
	J	US-			
	K	US-			
	L	US-			
	M	US-			

FOREIGN PATENT DOCUMENTS

*		Document Number Country Code-Number-Kind Code	Date MM-YYYY	Country	Name	Classification
	N					
	O					
	P					
	Q					
	R					
	S					
	T					

NON-PATENT DOCUMENTS

*		Include as applicable: Author, Title Date, Publisher, Edition or Volume, Pertinent Pages)
	U	
	V	
	W	
	X	

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*A copy of this reference is not being furnished with this Office action. (See MPEP § 707.05(a).)
Dates in MM-YYYY format are publication dates. Classifications may be US or foreign.

Exhibit B

LAW OFFICE OF RUDOLF O. SIEGESMUND

ATTORNEYS AND COUNSELORS AT LAW
SUITE 2000
4627 NORTH CENTRAL EXPRESSWAY
DALLAS, TEXAS 75205-4022
TELECOPIER 214-528-2434
214-528-2407

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MESSAGE: 09/457,116 ATTN: EXAMINER VU, ART UNIT 2174
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Response to Second Office Action

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NAME(ID NUMBER) USPTO

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Exhibit C

Auto-Reply Facsimile Transmission

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TO:

Fax Sender at 2145282434

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8 (including cover page)

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Page

=====>

AUG-21-03 17:38 FROM:

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PAGE 1

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TO: USPTO, EXAMINER UU, ART UNIT 2174

FAX NUMBER: 702-772-9344

TOTAL PAGES TRANSMITTED INCLUDING THIS COVER SHEET: 8

FROM: Rudolf Siegesmund

MESSAGE:

09/657,116

ATTN: EXAMINER UU, ART UNIT 2174

RUS720000405US1

Response to Second Office Action

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Martinez
Serial No.: 09/657,116
Filing Date: 09/07/2000
Art Unit: 2174
Attorney Docket No.: AUS920000405US1

Mail Stop Petition
Commissioner for Patents
Alexandria, VA 22313-1450

Dear Sir or Madam:

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Transmitted herewith are the following:

1. Petition to Accept Amendment as Timely Filed, including Exhibits A, B, and C;
2. Fee Transmittal Form; and
3. Return Postcard

Respectfully Submitted,

Rudolf O. Siegesmund

Rudolf O. Siegesmund

Registration No. 37,720

Suite 2000

4627 N. Central Expressway

Dallas, Texas 75205-4022

(214) 528-2407

FAX (214) 528-2434

Attorney for Applicant

Express Mail Label No.: EK041896105US Date of Deposit: 12/29/03

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Rudolf O. Siegesmund
Rudolf O. Siegesmund

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$)

Complete if Known

Application Number	09/657,116	RECEIVED JAN 08 2004 Technology Center 2100
Filing Date	09/07/2000	
First Named Inventor	MARTINEZ	
Examiner Name	Yu	
Art Unit	2174	
Attorney Docket No.	AUS920000405 US1	

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number
Deposit Account Name

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Credit any overpayments

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☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims -20** = X =
Independent Claims -3** = X =
Multiple Dependent =

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	130
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

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SUBTOTAL (3) (\$) 130.00

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Name (Print/Type)	RUDOLF O. SIEGESMUND	Registration No. (Attorney/Agent)	37,720	Telephone	214-528-2407
Signature	Rudolf O. Siegesmund	Date	12/29/03		

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This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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